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INDIGENOUS ISSUES

Written statement* submitted by the International Centre for Human Rights and Democratic Development (Rights & Democracy), a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 January 2002]

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*/ This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Indigenous Rights: Time is Running Out!

1. In December 1993, the General Assembly of the United Nations adopted Resolution 48/163, proclaiming that the International Decade of the World's Indigenous Peoples would begin on December 10, 1994. The end of this Decade is fast approaching, and the Sub-Commission on the Promotion and Protection of Human Rights has already proposed to hold an international conference in 2003 to take stock of progress (2001/12).

2. It is worth acknowledging that some very significant steps have been made, such as the creation of a Permanent Forum on indigenous issues, and the nomination of a Special Rapporteur on the fundamental rights and freedoms of indigenous peoples.

3. However, the foremost aspiration of indigenous peoples, the indispensable tool for their collective survival, is still conspicuous by its absence. Despite the fact that the right that is considered the cornerstone of the human rights framework — the right to self-determination — is addressed in Article 1 of the covenants on civil and political rights and on economic, social and cultural rights: *"All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development."*

4. Even though experts in treaty-monitoring mechanisms have issued recommendations to Canada and Norway on the observance of Article 1 as it applies to indigenous peoples, (CCPR/c/76/add.105 and CCPR/c/79/add.112), this right remains to be recognized explicitly for indigenous peoples by the Member States of the United Nations, particularly those attending the Working Group created by resolution E/CN/RES/1995/32. While the right is enshrined in Article 3 of the current text of the draft Declaration on the rights of indigenous peoples, it has not yet been adopted, and its current wording: *"Indigenous peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development,"* is still the object of bitter discussion.

5. The international community did not rise to the occasion at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. In fact, the conference's Declaration and Programme of Action replicate the international community's systematic refusal to recognize that indigenous peoples are in fact peoples, and that denying this fact is an act of discrimination.

6. In fact, while the term "people" is employed clearly throughout the Declaration and Programme of Action, Article 24 of the Declaration qualifies it with a safeguard that virtually divests it of meaning. The safeguard specifies that the use of the term "people" should in no way influence the outcome of discussions on the issue currently underway, and could not be interpreted as having implications for the rights attached to the term under international law.

7. Article 24 of the Declaration overshadows other highly important articles which describe the racism and discrimination that indigenous peoples have suffered and

continue to suffer, and which establish certain principles for the future.

8. These principles, which tie the end of discrimination to the full exercise of human rights, as set out in Article 40 (A/CONF.189/YY) of the Durban Declaration are impossible without recognition of peoples' foremost right, the right to self-determination.

9. Article 209 of the text negotiated in South Africa calls for speedy agreement on the text of the draft Declaration on the rights of indigenous peoples. It echoes Resolution 2001/12 of the Sub-Commission on the Promotion and Protection of Human Rights, which asks the participants of the Working Group, created by Resolution E/CN/RES/1995/32 of the Commission on Human Rights, to do everything in their power to accelerate the pace of work. This request must be highlighted and made an essential priority of the Commission on Human Rights.

10. There is still a considerable amount of work required to adopt the draft Declaration, and it is of the utmost importance for governments to make a special effort to understand that the recognition of all indigenous peoples' rights does not represent a threat to world peace. On the contrary, it is a factor of stability rooted in the obligation to negotiate.

11. It would be a shame to come to the end of the Decade and be forced to observe that governments still refuse to recognize that the rights stemming from peoples status under international law apply equally and without discrimination to indigenous peoples.

Therefore:

12. Rights & Democracy reaffirms its interest in the adoption of a Declaration on the rights of indigenous peoples, which explicitly recognizes their right of self-determination, before the end of the Decade dedicated to them, in conformity with Resolution E/CN/RES/1995/32 and with the full participation of indigenous representatives.

Rights & Democracy recommends that the Commission on Human Rights consider special measures aimed at accelerating the pace of work.

Permanent Forum on indigenous issues:

13. Rights & Democracy speaks as one with indigenous organizations and recommends that the Commission on Human Rights ensure that the United Nations provide the Permanent Forum with sufficient funds to create an independent technical secretariat.